

PATTI SUE O'MALLEY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ELLA ABADIR,

Plaintiff,

-vs-

Civ. No.: 14-CV-00855-WMS

CENTER ONE, LLC,

Defendant.

Examination before trial of **PATTI SUE O'MALLEY**, taken pursuant to Federal Law and Rules of Civil Procedure, taken at ACR of WNY, 170 Franklin Street, Suite 102, Buffalo, New York, taken on January 17, 2017 commencing at 2:03 p.m., ending at 4:36 p.m., held before Katie M. Puntoriero, Notary Public.

1 Q. Were you, at all, involved in the process by
2 which documents from the employer's records
3 were retrieved as part of the discovery
4 process in this case to be turned over to
5 plaintiff's counsel?

6 A. I'm sorry. Could you repeat that?

7 Q. Were you, at all, involved in the process by
8 which the employer's records --

9 A. Yes.

10 Q. What was your involvement in that?

11 A. Producing documents.

12 Q. Okay. What did you do to get those documents?

13 A. They had access to my entire email drive.

14 Q. Other than providing -- who's the they when
15 you say they had access?

16 A. Our IT department to make a copy of it to
17 submit it.

18 Q. Okay. Other than copying your email drive,
19 did you have any other involvement in
20 producing documents?

21 A. I provided employee folders for them to copy
22 to submit.

23 Q. When you say employee folders, are those

1 physical folders --

2 A. Physical --

3 Q. -- or electronic?

4 A. Physical folders, yes.

5 Q. Where were those physical folders maintained?

6 A. The managers' folders are maintained in my
7 office.

8 Q. So at the time that you produced those
9 records, was Ms. Abadir an employee of Center
10 One?

11 A. Technically, she would have been, yes.

12 Q. Okay. What is her current status now? Is she
13 still considered an employee?

14 A. That is a recent change from the end of this
15 past year.

16 Q. Is she or is she not considered an employee?

17 A. At this time, no.

18 Q. When did her employment cease?

19 A. I don't have the exact date.

20 Q. But you think it was sometime -- when you say
21 this past year?

22 A. 2016.

23 Q. You think sometime in 2016, her employment

1 ended?

2 A. November or December, correct.

3 Q. So at the time the records -- the managers'
4 records were turned over, the physical file --
5 the physical folder for Ms. Abadir was
6 maintained in your office?

7 A. Yes.

8 Q. Can you tell me how big that folder was, 10
9 pages, 50 pages, 1,000 pages --

10 A. I --

11 Q. -- in general terms?

12 A. Three to four inches thick.

13 Q. Okay. And can you describe the kinds of
14 documents that were maintained in that folder?

15 A. Employee record folders contain everything
16 from their hiring information, any changes in
17 payroll status, memos they might have signed
18 off on regarding changes for policy, any
19 warnings that would have been issued, notes
20 that occurred with an employee at -- for a
21 conversation.

22 Q. Do notes and conversations have specific
23 meanings in this context?

1 A. Record of a conversation.

2 Q. Okay. And is that a technical term within
3 your company?

4 A. Yes.

5 Q. So we've got hiring information, changes in
6 payroll, policy sign-offs, warnings, notes,
7 records of conversation. Are there any
8 other --

9 A. Any --

10 Q. -- documents?

11 A. -- benefit information that might have
12 pertained to an employee.

13 Q. Anything else you can think of that belongs in
14 that folder?

15 A. Any piece of paper associated with that
16 employee basically. I don't -- I mean -- it
17 varies from person to person, obviously.

18 Q. So if a person had a record of conversation
19 created, was the original document in the
20 folder in your office?

21 A. If a record of conversation was done and
22 turned in to us to be filed in their file, it
23 should be in the employee file, that is

1 correct.

2 Q. Other than your email drive and Ms. Abadir's
3 physical folder, can you remember turning over
4 any other information as part of the discovery
5 in this lawsuit?

6 A. Whatever other employee files that were asked
7 for to be copied and produced.

8 Q. Okay. Are you familiar with a process --
9 well, let me ask this question a different
10 way.

11 If an employee complained to someone in HR
12 about their supervisor or their next up in the
13 chain, in whose file would that complaint
14 be -- would the record of that complaint be
15 maintained, the complainer or the person being
16 complained about?

17 **MR. MOLDENHAUER:** Objection, form.

18 **THE WITNESS:** We should have a copy in
19 each file.

20 **MS. RICHMOND:** Okay. I'm going to ask
21 for this witness or some -- whoever has her
22 physical file now to search through that file
23 for Ms. Abadir's job description as a manager

1 have been some managers who didn't actually
2 manage people?

3 A. Correct.

4 Q. Okay. Did this -- do you know if Ms. Abadir
5 managed anybody when she was a business
6 analyst?

7 A. Not to my knowledge.

8 Q. Okay.

9 A. But again, she didn't report to me.

10 Q. Who was Sally Senft?

11 A. She works for Capital Management Services.

12 Q. Still does?

13 A. Yes.

14 Q. Was she there -- was she employed there in
15 2010 through 2013?

16 A. I don't know her exact hire date, but she
17 would have been there during that time period,
18 yes.

19 Q. Okay. Do you know what her duties were?

20 A. She's an executive assistant.

21 Q. Okay. Do you know to whom she reports?

22 A. Rachel Weiss.

23 Q. Are you familiar with video cameras maintained

1 in the call center for Center One, the
2 existence of such things?

3 A. Yes.

4 Q. Can you tell me what those video cameras
5 recorded?

6 A. The activity in the building.

7 Q. Were the -- let me ask you -- let me ask you a
8 different question. That's what the video
9 cameras saw was the activity in the building,
10 correct?

11 A. Yes.

12 Q. Do you know if those video cameras had a
13 recording function?

14 A. Yes.

15 Q. What -- what -- if you know, what was Center
16 One's practice with respect to preserving
17 video recordings?

18 A. It's under the IT department, so I don't have
19 any involvement in that process.

20 Q. Does HR ever utilize those recordings for any
21 purposes?

22 A. If we have to do an investigation, yes.

23 Q. So in that context, have you gained any

1 understanding of how long the recordings are
2 preserved?

3 A. I -- they are preserved for a certain period
4 of time. I don't recall what that is, and
5 that's not under my -- it could have changed,
6 as well. I don't know.

7 Q. Based on your experience, are they preserved
8 for more than 30 days?

9 A. My understanding is yes, more than 30 days.

10 Q. What is your understanding of how long they
11 are preserved?

12 A. I know it's more than 30. I really couldn't
13 give you exactly what it is. I know that it
14 depends upon the amount of activity which
15 takes up space on the server.

16 So I couldn't, again, tell you what that
17 is because I'm not directly involved in it.

18 Q. Who could tell me what the policy was for
19 preserving recordings between 2010 and 2013?

20 A. That would have to be somebody in the IT area
21 at that time.

22 Q. Do you have any idea who I might ask for to
23 get that?